

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 159.5, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 1, “Administration,” and to adopt new Chapter 36, “Egg Handlers,” Iowa Administrative Code.

The proposed amendments carry out the transfer of the rules for egg handlers from the Iowa Department of Inspections and Appeals to the Iowa Department of Agriculture and Land Stewardship authorized by 2011 Iowa Acts, House File 453. Those provisions will become effective on July 1, 2012.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 24, 2012. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by E-mail to Margaret.Thomson@IowaAgriculture.gov.

The proposed amendments are subject to the Department’s general waiver provision.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 159 and 196 and 2011 Iowa Acts, House File 453.

The following amendments are proposed.

ITEM 1. Amend subrule 1.5(2) as follows:

1.5(2) Commercial feed and fertilizer bureau. This bureau licenses feed mills and commercial feed manufacturing facilities; registers feed and stock tonic products; collects commercial feed tonnage fees; inspects medicated feed in accordance with Food and Drug Administration (FDA) rules and regulations; licenses and registers fertilizer plants and products; collects, compiles, and distributes data on plant food consumption; collects commercial fertilizer tonnage fees and groundwater protection fees; approves, inspects and regulates all anhydrous ammonia installations; ~~and~~ licenses, samples, evaluates and certifies all limestone quarries; and licenses and inspects egg handlers.

ITEM 2. Adopt the following **new** 21—Chapter 36:

CHAPTER 36 EGG HANDLERS

21—36.1(196) Definitions.

“*Capable of use as human food*” means any egg or egg product, unless it is denatured or otherwise identified as required by federal regulation to deter its use as human food.

“*Check*” means an egg that has a broken shell or crack in the shell but has its membranes intact and contents not leaking.

“*Department*” means the department of agriculture and land stewardship.

“*Dirty*” means an egg that has a shell that is unbroken and has adhering dirt or foreign material, prominent stains or moderate stains covering more than 1/32 of the shell surface if localized or 1/16 of

the shell surface if scattered.

“Egg handler” or *“handler”* means any person who engages in any business in commerce which involves buying or selling any eggs (as a poultry producer or otherwise), or processing any egg products, or otherwise using any eggs in the preparation of human food. An egg handler does not include a food establishment or home food establishment if either establishment obtains eggs from a licensed egg handler or supplier which meets standards referred to in rule 481—31.2(137F). Producers who sell eggs produced exclusively from their own flocks directly to egg handlers or to consumer customers are exempt from regulation as egg handlers.

“Inedible” means any egg of the following description: black rot, yellow rot, white rot, mixed rot (addled egg), sour egg, egg with a green white, egg with a stuck yolk, moldy egg, musty egg, egg showing a blood ring, and an egg containing any embryo chick (at or beyond the blood ring stage), and any egg that is adulterated as such term is defined pursuant to the federal Food, Drug and Cosmetic Act.

“Leaker” means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

“License holder” means an individual, corporation, partnership, governmental unit, association or any other entity to whom a license was issued pursuant to Iowa Code chapter 196.

“Loss” means an egg that is unfit for human food because the egg is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

“Official plant” means any establishment at which inspection of the processing of egg products is maintained by the department under the authority of Iowa Code chapter 196 or by the United States Department of Agriculture under the authority of the federal Egg Products Inspection Act.

“Restricted egg” means any check, dirty, incubator reject, inedible, leaker, or loss.

21—36.2(196) Licensing. An egg handler’s license shall be obtained from the department for each location at which eggs will be candled and graded. In order to obtain an egg handler’s license, the applicant shall comply with the standards contained in Iowa Code chapter 196 and this chapter.

36.2(1) A license is not transferable. License fees are not refundable unless the license is surrendered to the department prior to the effective date of the license.

36.2(2) A license is valid for one year, is renewable, and expires on October 1.

36.2(3) A valid license and the most recent inspection report, along with any current complaint or reinspection reports, shall be posted no higher than eye level where the public can see them. For the purpose of this subrule, only founded complaint reports shall be considered a complaint. Founded complaints shall be posted until either the mail-in recheck form has been submitted to the regulatory authority or a recheck inspection has been conducted to verify that the violations have been corrected.

36.2(4) Any change in business ownership or business location requires a new license. Multiple locations operated simultaneously each require a separate license.

36.2(5) The regulatory authority may require documentation from a license holder.

36.2(6) A delinquent license shall only be renewed if it is renewed within 60 days of its expiration. If a delinquent license is not renewed within 60 days, an establishment must apply for a new license and meet all the requirements for licensure. Establishments that have not renewed the license within 60 days of the expiration of the license shall be closed by the department or a contractor. The establishment shall not be reopened until a new license application has been submitted and approved.

36.2(7) License fees for egg handlers are based on the total number of cases of eggs purchased or handled during the month of April (Iowa Code section 196.3) and are charged as follows:

- a. For less than 125 cases—\$20.20;
- b. For 125 to 249 cases—\$47.25;
- c. For 250 to 999 cases—\$67.50;
- d. For 1,000 to 4,999 cases—\$135.00;
- e. For 5,000 to 9,999 cases—\$236.25;

f. For 10,000 or more cases—\$337.50.

For the purpose of determining fees, each case shall be 30 dozen eggs.

36.2(8) The department shall charge a voluntary inspection fee of \$100 when a voluntary inspection is requested.

21—36.3(196) Minimum sanitation and operating requirements.

36.3(1) Buildings shall be of sound construction so as to prevent the entrance or harboring of insects, rodents, or vermin. Floors shall be of washable materials and kept clean and floor drains provided where necessary. Walls and ceilings shall be of cleanable material and be kept clean and in good repair.

36.3(2) All areas and rooms in which eggs are handled, graded, and packed shall be kept reasonably clean during working hours and shall be thoroughly cleaned at the end of each operating day. Cartons and cases shall be stored off the floor and storage areas kept clean and dry.

36.3(3) Cooler rooms shall be free from objectionable odors, such as mustiness or a rotten odor, and shall be maintained in a clean, sanitary condition.

36.3(4) Egg cleaning equipment shall be kept in good repair and shall be thoroughly cleaned after each day's use or more often if necessary to maintain a sanitary condition. The wash water shall be potable and maintained at a temperature of 90°F minimum. The wash water temperature must be at least 20°F greater than the egg temperature. The wash water shall be replaced frequently, and the detergent and sanitizer shall be kept at an effective level at all times. During any rest period, or at any time when the equipment is not in operation, the eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a buildup of heat.

36.3(5) All eggs not cleaned as stated in subrule 36.3(4) must be properly washed and sanitized prior to placement in a carton or container for distribution in a site or operation that provides or prepares food for human consumption.

36.3(6) Facilities for hand washing, complete with hot and cold potable water under pressure, shall be provided. Hand soap, sanitary towels, or a hand-drying device providing heated air shall be conveniently located near the hand-washing area.

36.3(7) Live animals shall be excluded from the plant or portion of the plant in which shell eggs or egg products are handled or stored.

36.3(8) Only United States Department of Agriculture (USDA) or federally approved cleaning compounds and sanitizers may be used. The following substances used in the plant shall be approved and handled in accordance with the manufacturer's instructions: pesticides, insecticides, rodenticides, cleaning compounds, foam control compounds, sanitizers, and inks and oils coming into contact with the product. These products shall be properly stored and segregated.

36.3(9) A separate refuse room or a designated area for the accumulation of trash must be provided. There shall be a sufficient number of containers to hold trash, which must be maintained in good repair, kept covered when not in use, and cleaned at a frequency to prevent insect and rodent attraction.

36.3(10) Washed eggs must be reasonably dry before being placed in cartons or cases.

21—36.4(196) Egg grading or candling area.

36.4(1) The egg grading or candling area shall be adequately darkened to make possible the accurate quality determination of the candled appearance of eggs.

36.4(2) Egg-weighing equipment shall be provided, constructed to permit easy cleaning, and capable of ready adjustment.

36.4(3) A candling device with adequate light and capable of accurate determination of Iowa grade standards in rule 21—36.13(196) shall be maintained in good working order.

21—36.5(196) Water supply.

36.5(1) Adequate potable water shall be provided from a source constructed, maintained, and operated according to Iowa law.

36.5(2) Water from a private water system shall be sampled at least annually for coliform.

36.5(3) Records of water tests must be maintained by license holders not served by a public water system. These records must be available to the department upon request.

21—36.6(196) Egg storage.

36.6(1) From the time of candling and grading until they reach the consumer, all eggs designated for human consumption shall be held at an ambient temperature not to exceed 45°F or 7°C. Each refrigerated unit shall be provided with an accurate numerically scaled indicating thermometer which is located at a place that is representative of the air temperature in the unit. This ambient temperature requirement applies to any place or room where eggs are stored, except in a vehicle during transportation.

36.6(2) Eggs in transport vehicles may be stored at an ambient temperature above 45°F or 7°C, provided the vehicle is equipped with refrigeration units capable of delivering air at that temperature and capable of cooling the vehicle to that temperature.

36.6(3) All shell eggs shall be kept from freezing.

21—36.7(196) Eggs used in food preparation. Restaurants, institutional consumers, and food manufacturers shall receive and use only clean, sound shell eggs of Grade B quality or better. Dried, frozen, or liquid eggs may be bought only if such products are prepared and pasteurized in a plant under USDA continuous inspection.

21—36.8(196) Labeling and packaging.

36.8(1) All cases of loose-packed eggs sold in this state shall identify:

- a. The egg handler's name or license number or USDA plant number; and
- b. The grade of eggs contained in the case.

36.8(2) Each carton containing eggs for retail sale in Iowa which have been candled and graded shall be marked with:

- a. The grade and size of the eggs contained;
- b. The date the eggs were packed; and
- c. The name and address of the distributor or packer.

36.8(3) Labeling shall be printed in letters not less than ¼ inch in height, or plainly and conspicuously stamped or marked in letters not less than ½ inch in height.

36.8(4) Eggs sold to retailers must be prepacked in new cartons.

36.8(5) No person shall use any label which is deceptive as to the true nature of the article or place of production, or which has been carelessly printed or marked, nor shall any person erase or deface any label required by this chapter.

21—36.9(196) Restricted eggs.

36.9(1) No egg handler may possess and handle restricted eggs unless they are capable of use as human food, or destroyed, or identified and labeled for animal food.

36.9(2) Except for the producer exemption as provided in subrule 36.9(3), checks and dirties may be used for human food provided they are processed and pasteurized in an official plant.

36.9(3) Checks and dirties shall be sold directly or indirectly only to an official plant. However, a producer may sell checks and dirties on the producer's own premises where eggs are produced directly to household consumers for the personal use of the consumer and the consumer's nonpaying guests.

36.9(4) Producer-dealers, packers, handlers, distributors, or retailers shall not sell on or off the premises within the state any restricted eggs to any person, including consumers, institutional consumers or employees.

36.9(5) Restricted eggs shall not be given free to any person, including but not limited to institutional consumers, charitable organizations, or any employee whereby the restricted eggs may be used for human food.

36.9(6) Restricted eggs may be designated for animal food only when properly decharacterized or

denatured to preclude their use in food for human consumption. Each container or receptacle shall be labeled "Restricted eggs, Not to be used as human food". However, restricted eggs which are not decharacterized or denatured may be moved from one USDA-licensed plant to another USDA-licensed plant.

36.9(7) Inedible and loss eggs must be denatured at the point and time of segregation. If the liquid is removed from the shells, approved denaturant must be placed in the receptacle provided before the liquid is added. If loss eggs are placed on filler-flats or in flats and fillers, or in any other manner, each layer of eggs must be denatured before another layer is started. However, inedible and loss eggs under USDA inspection and control shall be handled in accordance with USDA recommendations.

36.9(8) Checks and dirties must be conspicuously labeled at the point and time of segregation with a placard or other device. Full or partial master cases containing checks and dirties must be labeled before transfer to the cooler.

21—36.10(196) Inspections and records. Egg handlers shall be inspected regularly. Egg handlers shall keep a record for each purchase and sale of eggs, including the date of the transaction, the names of the parties, the grade or nest run, and the quantity of eggs being purchased or sold. Records shall be maintained for three years and must be available to the department upon request.

21—36.11(196) Enforcement. Violation of these rules or any provision of Iowa Code chapter 196 is a simple misdemeanor. The department may employ various remedies if violations are discovered including, but not limited to, revocation or suspension of a license.

21—36.12(196) Health and hygiene of personnel.

36.12(1) No person known to be affected by a communicable or infectious disease shall be permitted to come in contact with the product.

36.12(2) Personnel engaged in egg handling operations shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during working periods. Personnel engaged in egg handling and warewashing operations shall thoroughly wash their hands and the exposed portion of their arms with soap or detergent and warm water before starting to work; after smoking, eating, or using the toilet; and as often as necessary during work to keep their hands and arms clean. Personnel shall keep their fingernails trimmed and clean.

36.12(3) Personnel shall wear clean outer clothing and effective hair restraints where necessary to prevent the contamination of the product.

21—36.13(196) Iowa grades. The Iowa standards for consumer grades, quality, and weight classes for shell eggs are as follows:

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TABLE 1
IOWA SPECIFICATIONS

QUALITY FACTOR	AA QUALITY	A QUALITY	B QUALITY
Shell	Clean Unbroken Practically normal	Clean Unbroken Practically normal	Clean to slightly stained* Unbroken Abnormal
Air Cell	1/8 inch or less in depth Unlimited movement and free or bubbly	3/16 inch or less in depth Unlimited movement and free or bubbly	Over 3/16 inch in depth Unlimited movement and free or bubbly

White	Clear Firm	Clear Reasonably firm	Weak and watery Small blood and meatspots present**
Yolk	Outline slightly defined Practically free from defects	Outline fairly well defined Practically free from defects	Outline plainly visible Enlarged and flattened Clearly visible germ development but no blood Other serious defects
<p>* Moderately stained areas permitted (1/32 of surface if localized, or 1/16 if scattered).</p> <p>** If they are small (aggregating not more than 1/8 inch in diameter).</p> <p>For eggs with dirty or broken shells, the standards of quality provide two additional qualities. These are:</p>			
Dirty		Check	
Unbroken Adhering dirt or foreign material, prominent stains, moderate stained areas in excess of B quality		Broken or cracked shell but membranes intact, not leaking***	
*** Leaker has broken or cracked shell and membranes and contents leaking or free to leak.			

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TABLE 2

SUMMARY OF IOWA CONSUMER GRADES FOR SHELL EGGS

U.S. CONSUMER GRADE (ORIGIN)	QUALITY REQUIRED ¹	TOLERANCE PERMITTED ²	
		Percent	Quality
Grade AA	87 percent AA	Up to 13 Not over 5 checks ⁶	A or B ⁵
Grade A	87 percent A or better	Up to 13 Not over 5 checks ⁶	B ⁵
Grade B	90 percent B or better	Not over 10 checks	

U.S. CONSUMER GRADE (DESTINATION)	QUALITY REQUIRED ¹	TOLERANCE PERMITTED ³	
		Percent	Quality
Grade AA	72 percent AA	Up to 28 ⁴ Not over 7 checks ⁶	A or B ⁵
Grade A	82 percent A or better	Up to 18 Not over 7 checks ⁶	B ⁵
Grade B	90 percent B or better	Not over 10	

		checks	
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- ¹ In lots of two or more cases, see Table 3 of this rule for tolerances for an individual case within a lot.
- ² For the U.S. Consumer Grades (at origin), a tolerance of 0.50 percent leakers, dirties, or loss (due to meat or blood spots) in any combination is permitted, except that such loss may not exceed 0.30 percent. Other types of loss are not permitted.
- ³ For the U.S. Consumer Grades (destination), a tolerance of 1 percent leakers, dirties, or loss (due to meat or blood spots) in any combination is permitted, except that such loss may not exceed 0.30 percent. Other types of loss are not permitted.
- ⁴ For U.S. Grade AA at destination, at least 10 percent must be A quality or better.
- ⁵ For U.S. Grade AA and A at origin and destination within the tolerances permitted for B quality, not more than 1 percent may be B quality due to air cells over 3/8 inch, blood spots (aggregating not more than 1/8 inch in diameter), or serious yolk defects.
- ⁶ For U.S. Grades AA and A jumbo size eggs, the tolerance for checks at origin and destination is 7 percent and 9 percent, respectively.

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TABLE 3
TOLERANCE FOR INDIVIDUAL CASE WITHIN A LOT

U.S. CONSUMER GRADE	CASE QUALITY	ORIGIN (Percent)	DESTINATION (Percent)
Grade AA	AA (Minimum)	77	62
	A or B	13	28
	Checks (Maximum)	10	10
Grade A	A (Minimum)	77	72
	B	13	18
	Checks (Maximum)	10	10
Grade B	B (Minimum)	80	80
	Checks (Maximum)	20	20

NOTE: Substitution of higher qualities for lower qualities is permitted.

TABLE 4
IOWA WEIGHT CLASSES FOR CONSUMER GRADES FOR SHELL EGGS

SIZE OR WEIGHT CLASS	MINIMUM NET WEIGHT PER DOZEN	MINIMUM NET WEIGHT PER 30 DOZEN	MINIMUM WEIGHT FOR INDIVIDUAL EGGS AT RATE PER DOZEN
	<i>OUNCES</i>	<i>POUNDS</i>	<i>OUNCES</i>
Jumbo	30	56	29
Extra Large	27	50½	26
Large	24	45	23
Medium	21	39½	20
Small	18	34	17
Peewee	15	28	--

These rules are intended to implement Iowa Code chapter 196 as amended by 2011 Iowa Acts, House File 453.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 159.5, the Department of Agriculture and Land Stewardship hereby amends Chapter 1, “Administration,” and adopts new Chapter 36, “Egg Handlers,” Iowa Administrative Code.

The amendments carry out the transfer of the rules for egg handlers from the Iowa Department of Inspections and Appeals to the Iowa Department of Agriculture and Land Stewardship authorized by 2011 Iowa Acts, House File 453. The statutory provisions will become effective on July 1, 2012.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0078C** on April 4, 2012. One favorable comment was received from the public. These amendments are identical to those published under Notice.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 159 and 196 and 2011 Iowa Acts, House File 453.

These amendments will become effective July 4, 2012.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [1.5(2), Ch 36] is being omitted. These amendments are identical to those published under Notice as **ARC 0078C**, IAB 4/4/12.

[Filed 5/10/12, effective 7/4/12]

[Published 5/30/12]

[For replacement pages for IAC, see IAC Supplement 5/30/12.]